THE HIGH COURT OF UTTARANCHAL AT NAINITAL

First Appeal No. 460 of 2001
(Old F.A. No. 662 of 2000)

1. State of U.P. through the Collector, Dehradun.
2. The Executive Engineer, Public Works Department (Construction Division) Dehradun

…Appellants.

Vs.

Rajendra Prasad Gairola, S/O V.D.Garirola,
Resident of Ajabpur Kalan, Dehradun
(Claimant)

…Respondent.

Sri Nand Prasad, learned Standing Counsel for the appellants.
None for the respondent despite sufficient service.

Date June 14, 2006

P.C.: Hon'ble B.S. Verma, J.

This appeal under Section 54 of the Land Acquisition Act is directed against the judgment and award dated 12-5-1999 passed by Sri Ahmad Shamim, the then III Additional District Judge, Dehradun, in Land Acquisition reference no. 103 of 1993, Rajendra Prasad Gairola Vs. Collector Dehradun and another, whereby the learned Reference Court partly allowed a lot of references including the present Land Acquisition reference and held the claimants entitled to get compensation of land @ Rs. 5,40,000/- per acre along with solatium @ 30% on the enhanced compensation, additional compensation @ 12% etc. as mentioned in the impugned award.

At the out set, it may be mentioned that land measuring 25.33 acres was acquired belonging to the landowners including the present respondent Madan Lal situate in village Ajabpur Kalan and Ajabpur Khurd, Central Doon, Dehradun by the Collector for construction of a By-pass road of the P.W.D. Dehradun Notification under Section 4(1) of the Land Acquisition Act ***(for short the Act)*** followed by Notification under Section 6(1)

of the Act were issued in the years 1989 and 1990 respectively. The possession of the land was taken in the year 1991. After completing necessary formalities, the Special Land Acquisition Officer ***(for short the S.L.A.O.)*** awarded compensation assessing the market value of the acquired land @ Rs. 3,21,052.63 per acre vide his Award dated 31.3.1992. Aggrieved by the said award, landowners filed objections alleging that the market value assessed by the SLAO was inadequate, which gave rise to a number of references under Section 18 of the Act before the Collector, which in turn were referred to the District Judge, Dehradun, for adjudication of the proper market value, which were, ultimately, heard and decided by the III Additional District Judge, Dehradun. Since the references pertained to the common award dated 31.3.1992 passed by the S.L.A.O. and the land was acquired under the same Notification and for the same purpose, all the references bearing L.A. Reference No. 81 of 1993, L.A. Reference No. 82 of 1993, L.A. Reference No. 83 of 1993, L.A. Reference No. 84 of 1993, L.A. Reference No. 85 of 1993 to L.A. Reference No. 100 of 1993, Land Acquisition No. 101 of 1993 to L.A. Reference No. 132 of 1993, L.A. Reference No. 159 of 1994 to L.A. Reference No. 163 of 1994 and L.A. Reference No. 181 of 1993 to L.A. Reference No. 183 of 1993 were consolidated together and decided by a common judgment and award dated 12.5.1999 by the Reference Court. It is pertinent to mention that the Division Bench of this Court vide judgment dated 20-9-2004 has already decided as many as 64 First Appeals by a common order, which arose out of L.A. Reference Nos. 113 of 93, 109/93, 361/93, 366/93, 363/93, 363/93, 358/93, 360/93, 362/93, 359/93, 161/94, 104/93, 100/93, 130/93, 93/93, 357/93, 87/93, 126/93, 160/94, 181/93, 115/93, 183/93, 162/94, 131/93, 112/93, 90/93, 106/93, 84/93, 94/93, 101/93, 116/93, 163/93, 91/93, 89/93, 125/93, 86/93, 99/93, 83/93, 98/93, 92/93, 108/93, 95/93, 119/93, 118/93, 105/93, 102/93, 102/93, 85/93, 117/93, 128/93, 107/93, 82/93, 120/93, 96/93, 111/93, 129/93, 123/93, 81/93, 114/93, 127/93, 161/94, and 124/93. All those First Appeals were p-referred by the State and ultimately, they

were dismissed on merit. A reference to the Division Bench judgment of this Court dated 20-9-2004 will be made at appropriate place.

According to the landowners-claimants, the land under acquisition bore high potential and all necessary facilities of water, electricity, Bank and Post Office etc. were available I n the vicinity and the land was *Abadi* land within one kilometer of the Municipal Limits and the claimants claimed compensation @ Rs. 10,00,000/- per acre. The Collector sated the claim preferred by the landowners asserting the land was agricultural land and it is situate 5-6 kms. far from the city. The learned Reference Court consolidated the bunch of cases together for purposes of recording evidence, framed necessary issues, recorded the evidence led by the rival parties and after hearing them, passed the impugned judgment and award dated 12-5-1999 as mentioned earlier.

In this appeal, the impugned award has been assailed mainly on the ground that the findings recorded by the Reference Court are not based on evidence on record and the award passed by the S.L.A.O. is liable to be restored. According to appellant, the S.L.A.O. has properly assessed the market value of the land under acquisition.

Heard the learned Standing Counsel and perused the material on record.

As mentioned above, this Court has already considered the grounds involved in the present appeal, while deciding the First Appeal No. 243 of 2001, Collector Dehradun and another Vs. Sri Chaman Lal along with 63 other appeal, which have arisen out of the common judgment and award dated 12-5-1999. The present appeal is squarely covered by the Division Bench Judgment dated 20-9-2004, whereby the appeals preferred by the State were dismissed on merit. The learned Standing Counsel has conceded

that all the grounds raised in the present appeals stood answered by the said judgment. I have perused the Division Bench judgment dated 20-9-2004 passed by this Court. The subject matter of dispute being identical, it will be in the interest of justice to dismiss the present appeal on merit in terms of the earlier judgment of this Court.

Accordingly, the present appeal is dismissed on merit in terms of the earlier Division Bench Judgment of the Court dated 20-9-2004 passed in First Appeal No. 243 of 2001, Collector Dehradun and another Vs. Sri Chaman Lal, Costs easy.

(B.S. Verma,J.)

RCP